



**Comptroller General
of the United States**

Washington, D.C. 20548

Decision

Matter of: Conrex, Inc.

File: B-266060.2

Date: February 7, 1996

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Brian Kennedy, Esq., Department of the Army, for the agency.

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DIGEST

In a best value procurement where the solicitation stated that technical considerations were more important than cost, agency reasonably evaluated protester's technical proposal as containing numerous weaknesses and deficiencies and reasonably concluded that award should be made to a significantly technically superior, higher priced offeror.

DECISION

Conrex, Inc. protests the Department of the Army's award of a contract to Prezant Associates, Inc., under request for proposals (RFP) No. DACA67-95-R0023, for asbestos and lead-based paint surveying services. Conrex argues that the Army improperly evaluated its proposal and unreasonably selected Prezant for award despite Prezant's higher price.

We deny the protest.

The RFP, issued as a total small business set-aside on May 3, 1995, contemplated the award of a firm, fixed-price requirements contract for a base year, with 4 option years. The RFP set forth a 1,000-point technical evaluation scheme and provided that technical factors were more important than price in the award selection. The RFP provided that proposals would be evaluated under the following technical evaluation criteria, in descending order of importance: (1) Technical Capability and Knowledge of Applicable Regulations; (2) Professional Qualifications of Key Personnel; (3) Equipment and Facilities; and (4) Documentation of Survey Results. The RFP advised that the Army intended to award a contract based on initial proposals without conducting discussions, and encouraged offerors to submit their best offers in their initial proposals.

Twenty-nine proposals were submitted by the June 6 closing date, including those of Prezant and Conrex. A technical evaluation panel (TEP) evaluated technical

proposals and assigned a numerical rating to each factor listed in the RFP. After the TEP totaled the scores for the various factors, the TEP discussed the actual total point score warranted by each proposal, and in certain instances, adjusted the final total point scores. Price proposals were evaluated separately for completeness, reasonableness, and realism.

Prezant's proposal received the highest technical score of 947 points and its price was \$9,586,984.40. Conrex's proposal was ranked 18th technically, with a technical score of 360 points, and its price of \$8,775,610, was the lowest of these 18 offers. Among other things, the TEP found that Conrex's proposal did not meet the minimum requirements for the "Professional Qualifications of Key Personnel," and the "Equipment and Facilities" factors. While the agency determined that Conrex's price was complete and realistic, it was unable to determine the reasonableness of Conrex's price because the portion of its proposal that was found deficient, concerning key personnel, constituted the largest price component under the RFP.

The agency concluded that discussions were not necessary and that Prezant's proposal represented the best overall value to the government. Award was made to Prezant on August 11, and Conrex filed an agency-level protest on September 7. This protest to our Office was filed shortly thereafter.

TECHNICAL EVALUATION

Conrex challenges the evaluation of its own proposal on various grounds. In reviewing an agency's evaluation of proposals, our Office will only question the agency's evaluation where it lacks a reasonable basis or is inconsistent with the stated evaluation criteria for award. DeLima Assocs., B-258278.2, Dec. 20, 1994, 94-2 CPD ¶ 253.

The agency concluded that Conrex's proposal contained numerous weaknesses and deficiencies that led to its low score. While Conrex argues that it is a well-qualified offeror and basically objects to any downgrading of its proposal, the record provides no basis to find the evaluation of Conrex's proposal unfair or unreasonable; to the contrary, the record shows that the agency performed a reasonable technical evaluation consistent with the evaluation criteria. For illustrative purposes, we discuss three of the weaknesses/deficiencies identified by the TEP to which the protester objects.

Professional Qualifications of Key Personnel

Under this evaluation criterion, the RFP instructed offerors to provide information concerning the personnel it was proposing for each of the 15 positions, such as industrial hygiene technician, certified lead inspector, and computer programmer, listed in Schedule Items 0001 through 0015. The TEP noted that Conrex's

11 proposed key personnel were insufficient to cover the 15 positions listed in the RFP. Conrex also failed to specify which individual was to perform tasks within each of the 15 positions listed in the RFP; for example, 5 of Conrex's proposed personnel had the title "Project Manager." Conrex's proposal received only 75 out of a possible 300 points under this evaluation factor. In view of the paucity of the information provided by Conrex, making it impossible for the TEP to determine from Conrex's proposal which of the 15 positions listed in the RFP Conrex's personnel covered, we see no basis to object to the agency's evaluation.

In contrast, Prezant's proposal, which received 274 out of a maximum of 300 points, under this evaluation factor, proposed 30 key personnel specifically covering each of the 15 positions listed in the RFP.

Equipment and Facilities

Under this evaluation criterion, offerors were to provide a description of the following: data collection and sampling equipment, certified laboratory facilities and analysis expertise, and computer equipment and capabilities. Conrex's proposal received 65 out of a possible 180 points. The TEP determined that Conrex stated, but failed to adequately demonstrate, that it possessed the necessary facilities and equipment for collection and sampling of asbestos. The TEP also determined that Conrex's proposal failed to demonstrate whether it had the capability to provide several items that are required by the RFP, such as preparation management plans, report preparation, location drawing, and computerized data management. In our view, the failure of Conrex's proposal to describe its facilities and equipment for sampling asbestos, and its failure to describe its capability to generate the items listed in the RFP, provided a reasonable basis for significantly downgrading the protester's proposal in this area.

In contrast, Prezant received 170 out of the maximum score of 180 points for this evaluation factor. The TEP determined that Prezant possessed good equipment, demonstrated good database management, and possessed the necessary computers to perform the tasks required by the RFP.

Technical Capability

Under this evaluation factor, offerors were to describe their technical capability and their knowledge of applicable federal, state, and local regulations regarding asbestos and lead-based paint surveys. Conrex received 235 points out of a possible 400 points for this evaluation factor. While Conrex demonstrated above average technical capability, expertise, and knowledge of applicable federal and state regulations, Conrex's proposal failed to demonstrate the firm's use of local regulations in asbestos work. According to the TEP, the Puget Sound Air Pollution Control Authority (PSAPCA) is the local agency chartered by the Environmental

Protection Agency whose regulations stipulate the minimum requirements for asbestos work in the Puget Sound area; the TEP downgraded Conrex's proposal because it failed to demonstrate use of the PSAPCA regulations for its asbestos work.

Conrex responds that its proposal was unfairly downgraded because it demonstrated a tremendous experience with certain other local regulations, which, according to Conrex, governs the counties south of the PSAPCA region and which are assertedly identical to the PSAPCA regulations. However, a review of Conrex's proposal reveals that it failed to demonstrate its use of either the PSAPCA or the other regulations with regard to its asbestos work. Regardless of the regulatory experience that Conrex may possess in this area, a technical evaluation must be based on information in or submitted with its proposal. Watson Indus., Inc., B-238309, Apr. 5, 1990, 90-1 CPD ¶ 371.

In contrast, Prezant received 398 points out of a total of 400 points for this evaluation factor. The TEP noted that Prezant demonstrated great regulatory knowledge, especially concerning PSAPCA. The TEP also noted that the TEP had extensive local experience with large clients.

COST/TECHNICAL TRADEOFF

The protester also challenges the agency's cost/technical tradeoff, asserting that insufficient weight was given to its significantly lower price. In addition, Conrex protests the selection of Prezant's higher-priced proposal for award, asserting that the agency did not specifically determine that the price premium associated with Prezant's proposal was justified.¹

In a negotiated procurement, the government is not required to make award to the lowest-cost, technically acceptable offeror unless the RFP specified that cost will be determinative. General Servs. Eng'g, Inc., B-245458, Jan. 9, 1992, 92-1 CPD ¶ 44. Source selection officials (SSO) have broad discretion to determine the manner and extent to which they will make use of the technical and cost evaluation results in

¹Conrex also complains of the agency's failure to establish a competitive range prior to award. Competitive ranges are established for the purpose of conducting discussions. Federal Acquisition Regulation (FAR) § 15.609(a); see Avondale Technical Servs., Inc., B-243330, July 18, 1991, 91-2 CPD ¶ 72. Here, where the RFP stated the agency's intent to make award on the basis of initial offers without conducting discussions, and it in fact did so, the agency was not required to establish a competitive range. See Associates Relocation Management Co., Inc., B-242437, Apr. 19, 1991, 91-1 CPD ¶ 390.

negotiated procurements. Grey Advertising, Inc., 55 Comp. Gen. 1111 (1976), 76-1 CPD ¶ 325. Cost/technical tradeoffs may be made in selecting an awardee, subject only to the tests of rationality and consistency with the established evaluation factors. Varian Assocs., Inc., B-238452.4, Dec. 11, 1990, 90-2 CPD ¶ 478. Here, under an RFP in which technical merit was more important than price, Conrex's low priced proposal received an extremely low technical score of 360 points (18th rated), and was found not to meet the minimum requirements for the "Professional Qualifications of Key Personnel," and the "Equipment and Facilities" factors. In contrast, Prezant's technical proposal received 947 points and the agency noted that it presented numerous advantages. For example, the agency determined that the proposed personnel in Prezant's proposal had excellent qualifications, its laboratory facilities and analysis expertise were excellent, and the proposal offered good database management as well as the necessary computers to perform the tasks required by the RFP. Under these circumstances, notwithstanding the price advantage presented by Conrex's marginal proposal, the agency reasonably determined that as between these two proposals Prezant's technically superior proposal constituted the best value. See The Hotel San Diego, B-260971, July 7, 1995, 95-2 CPD ¶ 4.

The protest is denied.

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